IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.2021 OF 2007

Dheeraj D. Dhanawat ....Petitioner

V/s.

State of Maharashtra & Ors. ....Respondents

Mr.R.K. Mendadkar for the Petitioner.

Mr.V.P. Malwankar, AGP for the Respondents.

**CORAM : F.I. REBELLO &**
**R.M. SAVANT, JJ.**
**DATED : 26TH MARCH, 2007.**

**ORAL ORDER : (PER R.M. SAVANT, J.)**

1. Rule. Rule with consent of the parties made returnable forthwith and heard.

2. By this Petition filed under Article 226 of the Constitution of India, the Petitioner impugns the order dated 17.3.2007 passed by the Divisional Caste Certificate Scrutiny Committee. By the said order, the Petitioner's caste/tribe claim as belonging to Rajput Bhamta which is a Vimukta Jati, has been rejected.

3. Such of the facts which are necessary to be

cited are stated thus :-

. The Petitioner obtained a caste certificate as belonging to Rajput Bhamta on 17.6.2002 from the Sub Divisional Officer, Bhiwandi Sub Division, District Thane. The Petitioner's caste certificate was sent for verification by the Junior College in which the Petitioner was studying namely Saraswati Education Society High School and Junior College, Thane on 5.12.2002. Along with the said certificate, various other documents were also submitted. The Petitioner thereafter had appeared for MH-CET examination and on the basis of the mark obtained by him in the said examination, the Petitioner was admitted in Respondent No.4 college for the M.B.B.S. course. The Petitioner was admitted against the said seat meant for Vimukta Jati pending decision of Respondent No.2 - Committee.

4. In view of the fact that the time period prescribed for submitting the caste certificate was expiring, the Petitioner filed Writ Petition No.7808 of 2006 in this Court, which Writ Petition came to be disposed of by an order dated 6.12.2006 by a Division Bench comprising of the Hon'ble Chief Justice H.S. Bedi (as he then was) and Hon'ble Justice V.M.

Kanade. By the said order the Committee was directed to decide the Petitioner's caste/tribe claim within three months and in the meantime the admission of the Petitioner should be not cancelled. It was also directed that in case the order is adverse to the Petitioner, the same should not be implemented for a period of three weeks thereafter. It appears that thereafter one Sachin Govindsing belonging to the same community i.e. Rajput Bhamta as the Petitioner, approached the Apex Court by filing SLP No.14509 of 2006 allegeding that the Petitioner was admitted to the M.B.B.S. course without he having the caste validity certificate. The Petitioner was also a party to the said SLP. The SLP came to be disposed of by the Apex Court on 12.2.2007 and time limit granted was further extended by the Apex Court upto 21.3.2007. The Petitioner therefore approached Respondent No.2 - Committee vide his letter dated 22.2.2007 pointing out to the Committee the order passed by the Apex Court.

5. Thereafter the Committee decided the caste claim of the Petitioner belonging to Rajput Bhamta, Vimukta Jati by following the procedure prescribed for the same. The report of the Vigilance Cell was submitted to the Committee and suffice it to say that the said Vigilance Cell recorded that from the

material produced before it that it appears that the Petitioner belongs to Rajput Bhamta community which is a Vimukta Jati.

. The Petitioner also filed various documents in support of his tribe claim amongst which were caste validity certificates issued to the Petitioner’s father namely 1) Dongersingh Gumansingh Dhanawat, the validity certificate issued to the Petitioner’s paternal uncle namely 2) Dr.Govindsing Fulchand Dhanawat as also the caste validity certificate issued to another cousin uncle namely 3) Rahul Tarachand Dhanawat, 4) caste validity certificate issued to one Varsha Ramsing Dhanawat, close relative of the Petitioner, which is following the decision of this Court, 5) police record registering the offence against the Petitioner’s grand-father Gorya @ Govardhan Bhika Pardeshi. On consideration of the material adduced before it by the Petitioner, the Committee came to a conclusion that the Petitioner does not belong to Rajput Bhamta, Vimukta Jati. The said Committee held against the Petitioner on account of certain erasions which were found in the original school register in respect of the Petitioner’s father wherein according to the Committee the word "Bhamta" was written below the word "Rajput" in different ink.

The Committee also held against the Petitioner on the ground that there is no caste as Rajput Bhamta in the Buldhana district from where the Petitioner hails. The Committee also did not give credence to the documents evidencing the registration of theft case against the Petitioner's grand-father Gorya @ Govardhan Bhika Pardeshi.

6. It is pertinent to note that there are as many as three validity certificates granted to the Petitioner's near relations including one to the Petitioner's father. The said documentary evidence we find, has not been properly appreciated by the Committee. The Committee merely relying upon the erasions made in the original school register has held against the Petitioner. The Committee as can be seen from the order, has not even adverted to the said validity certificates of the Petitioner's uncle. Merely because there are erasions in respect of one document, the caste/tribe claim of the Petitioner cannot be rejected on the said basis without considering the other documentary evidence produced by the Petitioner. In so far as the Committee's findings that the Committee has came to know that there is no caste as Rajput Bhamta found in Buldhana District, there is no indication in the order as to on what

basis the said conclusion was arrived at. The said conclusion could have only been arrived at if there was some material in the form of population figures etc. placed before the Committee.

7. As regards the evidence produced by the Petitioner of registration of offence of theft against the grand-father of the Petitioner said Gorya @ Govardhan Bhika Pardeshi, the said evidence has been brushed aside by the Committee by holding that the same was not under Crime Act of 1924. The Committee has not even bothered to go into the veracity of the said document or has not even bothered to investigate the said claim of the Petitioner. In our view such cannot be the approach of a Committee entrusted with the task of scrutinising the caste/tribe claim of the Applicants. We are of the view that since the Committee has not properly appreciated the documentary evidence produced before it as well as since the Committee has arrived at certain conclusions in Rajput Bhamta case not found in Buldhana District without there being any basis for the same, we are of the view that the matter needs to be remanded back to the said Committee for a decision afresh by taking into consideration the documentary evidence produced by the Petitioner in the form of caste validity certificates

issued to the Petitioner's near relations. The Committee is therefore directed to decide the matter afresh on its own merits without being influenced by any of the observations made in this order. The Petitioner is directed to appear before the Committee on 16.4.2007 and thereafter the Committee to decide the matter afresh within two months thereafter.

8. Rule is accordingly made absolute in the aforesaid terms with the parties to bear their respective costs.

(R.M. SAVANT, J.) (F.I. REBELLO, J.)